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8/18/94

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

AUG 18 1994

CS-29AS

MEMORANDUM

SUBJECT: Citizen Suit Under CERCLA
FROM: *for Deloris Johnson*
Sean Mulroney
Assistant Regional Counsel
TO: Jodi Traub
Acting Associate Division Director,
Office of Superfund

*AE STAFF
REF # 168*

The Office of Regional Counsel has received the attached notice for a citizen suit. Please review the notice to determine whether U.S. EPA is taking or intends to take enforcement action at the referenced facility or site and convey your determination to me via memorandum (CS-29AS) or telephone (886-7150). Enforcement action initiated by U.S. EPA at the facility or site prior to sixty days after receipt of the attached notice may preclude the citizen suit.

cc: Gail Ginsberg
William Muno
Lynn Peterson



168

EDMUND B. MORAN, JR.
ATTORNEY AT LAW
53 WEST JACKSON BOULEVARD • SUITE 718
CHICAGO, ILLINOIS 60604

TELEPHONE
(312) 408-1544
FACSIMILE
(312) 408-1539

DELIVERY VIA CERTIFIED MAIL

June 10, 1994

Valdas V. Adamkus
Regional Administrator
U.S. ENVIRONMENTAL PROTECTION AGENCY
Region V
77 West Jackson Blvd.
Chicago, IL 60604

Emv/moran

Dear Administrator Adamkus:

Please find enclosed a copy of a letter I have forwarded this date to Mr. Douglas Lapings, president of A.E. Staley Company, providing notice of the intent of The United Paperworkers International Union (hereinafter "UPIU") to file an action against A.E. Staley in U.S. District Court for the Central District of Illinois related to alleged violations of the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Federal Resource Conservation and Recovery Act, and the Federal Toxic Substances Control Act as specified in the notice letter to Mr. Lapings. I am providing a copy of this notice of intent to sue letter to you pursuant to the requirements of one or more of the above federal environmental statutes and in my capacity as the legal representative of UPIU with respect to this matter. You may contact me if you have any questions regarding the enclosed.

Sincerely,

Edmund B. Moran, Jr.
Edmund B. Moran, Jr.

EBM/l su

EDMUND B. MORAN, JR.
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TRANSMISSION VIA CERTIFIED MAIL

Return receipt requested

June 10, 1994

Mr. Douglas Lapings
President
A.E. STALEY MANUFACTURING COMPANY
2200 Eldorado Street
Decatur, IL 62525

Dear Mr. Lapings:

Section 159(d) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA"), 42 U.S.C. §9659(d), requires that sixty (60) days prior to the institution of a civil action under the authority of Section 159(a)(1) of CERCLA, a citizen must give notice of the intent to sue a violator of the provisions of CERCLA.

You are hereby given notice that, after the expiration of sixty (60) days from the date of this notice of intent to sue, The United Paperworkers International Union (hereinafter "UPIU") will file an action against A.E. Staley Manufacturing Company (hereinafter "Staley") in U.S. District Court for the Central District of Illinois, regarding the violations set forth below.

UPIU hereby places you on notice that it believes that Staley has violated and continues to violate the provisions of CERCLA and regulations adopted thereunder, see particularly, 40 CFR Section 300.1, et seq. The specific violations in question relate to Staley's on-site landfill located on its facility located at 2200 East Eldorado Street, Decatur, Illinois (Illinois Environmental Protection Agency Site No. L1150150032). The violations in question result from the release or threatened release of hazardous substances from an approximately 40-acre landfill located just north of Williams Street. The hazardous substances placed in this

landfill continue to persist in the soils and are believed to have reached groundwater below and adjacent to the landfill in question. The uncontrolled releases present a serious and imminent threat to public health and safety and to the environment. The contemplated civil action will seek mandatory injunctive relief requiring the complete cleanup of all hazardous substances released or potentially released from the subject landfill and will seek all other permissible penalties as well as the expenses incurred by UPIU in bringing the action, including the recovery of its costs, attorney's fees, and expert witness fees. The types of hazardous wastes that are believed to have been disposed of in the landfill and which are either being released or threatening to be released include corrosive lab waste containing sulfuric acid and mercury, ignitable paint thinners and solvents, kerosene, methyl alcohol, ignitable lab packs, 1-chloro-2, 4 dinitro benzene, ketone peroxide, spent methanol and mixtures of spent solvents including xylene, methyl isobutyl ketone, spent tetrachloroethylene, propylene oxide, PCB's and numerous other hazardous substances.

Section 7002 of the Federal Resource Conservation and Recovery Act (hereinafter "RCRA"), 42 U.S.C. §6972 requires that sixty (60) days prior to the institution of a civil action under the authority of that Act, a citizen must give notice of the intent to sue a violator of the provisions of RCRA.

You are hereby given notice that after the expiration of sixty (60) days from the date of this notice of intent to sue, UPIU will include a claim under RCRA in the civil action against Staley referred to above in the second paragraph of this letter.

UPIU hereby places you on notice that it believes that Staley has violated and continues to violate RCRA in that the hazardous wastes, numerous of which are referred to in the third paragraph above, were generated, handled, and disposed of without authority of the state or federal government, in contravention of legal requirements prescribed by RCRA regarding handling and disposal of hazardous wastes in Staley's on-site landfill and in a fashion not consistent with the regulations promulgated under RCRA so as to ensure the secure containment of those hazardous wastes now and in the future. The manner of handling and disposal of these hazardous wastes resulted in the release or potential release of these hazardous wastes and has completely failed to adequately address public health and safety issues related to the environment and those persons, including approximately 2400 members of UPIU, who live in the area surrounding the Staley landfill. The contemplated civil action will seek mandatory injunctive relief requiring the complete cleanup of all hazardous wastes resulting from the release or potential releases from the subject landfill and will seek all other permissible penalties as well as the expenses incurred by UPIU in bringing the action, including the recovery of its costs, attorneys fees, and expert witness fees.

Section 2619 of the Federal Toxic Substances Control Act (15 U.S.C. §2601, et seq.) authorizes any person to commence a civil action against any person in violation of said Act or any rule promulgated under Section 2605, among others.

You are hereby given notice that after the expiration of the period of time referred to above and provided by this notice, UPIU will include a claim under TSCA in the civil action against Staley referred to above in the second paragraph of this letter.

UPIU hereby places you on notice that it believes that Staley has violated and continues to violate 42 U.S.C. §2605 and the regulations promulgated thereunder (40 CFR 761, et seq.) in that UPIU believes that, over the course of many years, Staley handled, transported to, and disposed of in its on-site landfill referred to above, large amounts of spent PCB material generated throughout the Staley facility in Decatur and, in doing so, did so in violation of virtually all of regulatory requirements related to the handling and disposal of PCB's set forth in TSCA and the regulations thereunder.

UPIU believes that the handling and disposal of many of the hazardous substances, wastes, and toxic substances referred to above took place, at a minimum, on a weekly basis and that disposal of the pertinent substances took place since at least the 1950's to and through approximately 1985. Further, UPIU believes that the presence of said hazardous and toxic substances and wastes in the soils and groundwater underlying and adjacent to the landfill in question presents a continuing endangerment to public health and safety, the environment, and to the health and safety of hundreds of UPIU members living near the Staley landfill site.

I am forwarding this letter to you in my capacity as the legal representative of UPIU with respect to this matter and you may contact me if you have any questions regarding the enclosed. I am also forwarding copies of this notice to each of the carbon copy recipients shown below. Each of the indicated recipients must receive a copy of this notice under one or more of the federal environmental statutes discussed above.

Sincerely,



Edmund B. Moran, Jr.

EBM/lau

cc: The Honorable William J. Clinton
President
THE WHITE HOUSE
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Carol M. Browner
Administrator
U.S. ENVIRONMENTAL PROTECTION AGENCY
401 M Street, S.W.
Washington, D.C. 20460

Valdas V. Adamkus
Regional Administrator
U.S. ENVIRONMENTAL PROTECTION AGENCY
Region V
77 West Jackson Blvd.
Chicago, IL 60604

Mary Gade
Director
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
2200 Churchill Road
Springfield, IL 62701

C.T. CORPORATION
Registered Agent for
A.E. Staley Manufacturing Company
208 S. LaSalle Street
Chicago, IL 60604